

Senate Bill 226

By: Senators Crosby of the 13th, Pearson of the 51st, Mullis of the 53rd, Johnson of the 1st, Harp of the 29th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated,
2 relating to deceptive or unfair practices, so as to provide for the prohibition against the
3 advertising and conducting of certain live musical performances and productions; to provide
4 for a short title; to provide for definitions; to provide for certain civil remedies; to provide
5 for certain penalties; to provide for related matters; to repeal conflicting laws; and for other
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to
10 deceptive or unfair practices, is amended by adding a new part to read as follows:

11 "Part 7

12 10-1-439.

13 This part shall be known and may be cited as the 'Truth in Music Advertising Act.'

14 10-1-439.1.

15 As used in this part, the term:

16 (1) 'Performing group' means a vocal or instrumental group seeking to use the name of
17 another group that has previously released a commercial sound recording under that
18 name.

19 (2) 'Recording group' means a vocal or instrumental group at least one of whose
20 members has previously released a commercial sound recording under that group's name
21 and in which the member or members have a legal right by virtue of use or operation
22 under the group name without having abandoned the name or affiliation with the group.

23 (3) 'Sound recording' means a work that results from the fixation on a material object of
24 a series of musical, spoken, or other sounds regardless of the nature of the material object,
25 such as a disc, tape or other phonographic record, in which the sounds are embodied.

26 10-1-439.2.

27 (a) It shall be unlawful for any person to advertise or conduct a live musical performance
28 or production in this state through the use of a false, deceptive, or misleading affiliation,
29 connection or association between a performing group and a recording group.

30 (b) This Code section shall not apply to the following, if:

31 (1) The performing group is the authorized registrant and owner of a federal service
32 mark for that group registered in the United States Patent and Trademark Office;

33 (2) At least one member of the performing group was a member of the recording group
34 and has a legal right by virtue of use or operation under the group name without having
35 abandoned the name or affiliation with the group;

36 (3) The live musical performance or production is identified in all advertising and
37 promotion as a salute or tribute;

38 (4) The advertising does not relate to a live musical performance or production taking
39 place in this state; or

40 (5) The performance or production is expressly authorized by the recording group.

41 10-1-439.3.

42 (a) Whenever the Attorney General or a district attorney has reason to believe that any
43 person is advertising or conducting or is about to advertise or conduct a live musical
44 performance or production in violation of Code Section 10-1-439.2 and that proceedings
45 would be in the public interest, the Attorney General or district attorney may bring an
46 action against the person to restrain by temporary or permanent injunction that practice.

47 (b) Whenever any court issues a permanent injunction to restrain and prevent violations
48 of this part pursuant to subsection (a) of this Code section, the court may in its discretion
49 direct that the defendant restore to any person in interest any moneys or property, real or
50 personal, which may have been acquired by means of any violation of this part.

51 10-1-439.4.

52 A person who violates Code Section 10-1-439.2 shall be punished by a civil penalty of not
53 less than \$5,000.00 nor more than \$15,000.00 per violation, which civil penalty shall be
54 in addition to any other relief which may be granted pursuant to Code Section 10-1-439.3.
55 Each performance or production declared unlawful pursuant to Code Section 10-1-439.2
56 shall constitute a separate violation."

57

SECTION 2.

58 All laws and parts of laws in conflict with this Act are repealed.